

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

CHANEL MONROE and *
PAUL A. MONROE, legal representatives *
and parents of a minor child, *
ANGELINA MONROE, *

Petitioners, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 13-239V

Special Master Christian J. Moran

Filed: December 5, 2013

Decision on the record; insufficient
proof of causation; screaming; irritability;
self-inflicted head-banging; abdominal pain;
diarrhea; various vaccines.

Richard H. Moeller, Berenstein, Moore, et al., Sioux City, IA, for petitioner;
Lynn E. Ricciardella, United States Dep't of Justice, Washington, D.C., for respondent.

UNPUBLISHED DECISION DENYING COMPENSATION¹

On April 5, 2013, Chanel and Paul A. Monroe, on behalf of their minor daughter, Angelina Monroe, filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §300a-10 et. seq. In their petition, the Monroes allege that Angelina suffered episodes of inconsolable, high-pitched intense screaming, incessant irritability, self-inflicted head-banging, inability to sleep, oral pain, abdominal pain, feeding problems, diarrhea, constipation, bowel problems, and “other symptoms” as the result of DTaP, Hep B, IPV, Hib, PCV, and rotavirus vaccines administered on February 3, 2010, and December 7, 2010. Petition at 1. The Monroes additionally allege that, alternatively, Angelina suffered a significant aggravation of a preexisting injury as a result of her vaccines. *Id.* The information in the record, however, does not show entitlement to an award under the Program.

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this ruling on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

I. Procedural History

Following their April 5, 2013 petition, the Monroes periodically filed additional medical records (exhibits 1-17), as well as an affidavit from Chanel Monroe (Pet'rs Aff., filed June, 14, 2013). The Monroes filed a statement of completion on June 14, 2013.

On August 22, 2013, respondent submitted her report pursuant to Vaccine Rule 4. In her report, respondent concluded that petitioners failed to meet their evidentiary burden, and, recommended that compensation be denied. See Resp't Rep't at 9-15.

A status conference was held on September 9, 2013. In this conference, the Monroes stated that they were searching for an expert witness to opine on their case. A follow-up status conference was held on October 21, 2013, during which the Monroes reported that their search for an expert was still ongoing. The Monroes were ordered to file a status report proposing a date for their expert report by November 25, 2013. See order, filed Oct. 21, 2013.

On October 30, 2013, petitioners filed a status report indicating that they were unable to locate an expert witness and did not anticipate the ability to do so by November 25, 2013. During a status conference, held November 19, 2013, petitioners indicated that they intended to file a motion for decision on the record.

On November 20, 2013, the Monroes moved for a decision on the record. In informal communications with respondent, respondent indicated that she would not file a response and will rest on her Rule 4 report. Accordingly, this case is now ready for adjudication.

II. Analysis

To receive compensation under the National Vaccine Injury Compensation Program (hereinafter "the Program"), petitioners must prove either 1) that Angelina suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to her vaccination, or 2) that she suffered an injury that was actually caused by a vaccine. See §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). An examination of the record did not uncover any evidence that Angelina suffered a "Table Injury." Thus, she is necessarily pursuing a causation-in-fact claim.

Under the Act, a petitioner may not be given a Program award based solely on the petitioner's claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because the medical records do not support the Monroes' claim, a medical opinion must be offered in support. The Monroes, however, have offered no such opinion.

Accordingly, it is clear from the record in this case Chanel and Paul A. Monroe have failed to demonstrate either that their daughter Angelina suffered a “Table Injury” or that her injuries were “actually caused” by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

IT IS SO ORDERED.

S/Christian J. Moran
Christian J. Moran
Special Master